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Attorney for Defendants

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**

ALEC BYRNE,

Plaintiff,

v.

GETTY IMAGES US, INC., *et al.*,

Defendants.

Case No. 2:23-cv-05040-RGK-PD

JOINT RULE 26(f) REPORT

Scheduling Conference Date:
September 25, 2023

Complaint Filed: June 26, 2023
Answer Filed: August 25, 2023¹

¹ Defendant Getty Images filed its answer on August 25, 2023 (Dkt. No. 14), however the remaining defendants' answers have not yet been filed. Counsel for Getty Images has indicated that he may be representing the other named defendants, and a request for waiver of service was sent to counsel on August 11, 2023. As such, the remaining named defendants' response deadline should be October 10, 2023.

Counsel for Plaintiff Alec Byrne (“Plaintiff”) and Defendants Getty Images US, Inc. (“Getty Image”); Los Angeles Times Communications LLC; Dotdash Media Inc.; Vox Media, LLC; and Quarto Publishing Group USA, Inc.² (collectively, “Defendants”) hereby submit this Joint Report pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, Local Rule 26-1, and the Court’s Order Setting Scheduling Conference (Dkt. No. 16).

1. NATURE OF THE CASE

This is a copyright infringement action brought by Plaintiff under the U.S. Copyright Act, 17 U.S.C. §§ 101, *et seq.* (the “Copyright Act”). Plaintiff alleges that Defendants infringed Plaintiff’s copyrights in the photographs identified in the Complaint by copying, selling, licensing, distributing, and publishing Plaintiff’s photographs on Defendants’ respective websites and other media. Defendant Getty Images denies that it infringed the copyrights claimed by Plaintiff and, further, denies that it is liable to Plaintiff because some or all of the photographs identified in the Complaint were in the public domain and because Getty Images was authorized to display, distribute and reproduce the photographs by the party or parties with exclusive rights in the same. Plaintiff and Defendant Getty Images do not view this case as overly complex and do not believe the procedures of the Manual For Complex Litigation should be utilized.

2. MOTIONS:

(a) Procedural Motions.

Plaintiff anticipates seeking to amend his Complaint to name the currently unidentified John Doe Defendants as parties or, in the alternative, filing a related action against such parties once identified and seeking consolidation with this case. Plaintiff also

² The John Doe defendants – representing the 237 individuals/entities to which Getty Images distributed the copyrighted works at issue – have not yet been identified and are not represented by the named Defendants’ counsel.

1 has identified an additional image for which he owns copyright that is being displayed and
2 offered for sale by Getty Images. For the sake of efficiency, Plaintiff intends to file one
3 amended complaint to include both the John Doe parties and this additional photo/claim.

4 **(b) Dispositive Motions.**

5 *Plaintiff:* Plaintiff anticipates filing a motion for summary judgment regarding
6 Defendants' liability for copyright infringement at the conclusion of discovery.

7 *Defendant Getty Images:* Defendant Getty Images anticipates filing a motion for
8 summary judgment on one or more of its affirmative defenses, including its defense that
9 Plaintiff's photographs were in the public domain and thus not protected by copyright law.

10 If Plaintiff elects not to join the John Doe Defendants, the parties agree that the cut-
11 off date for filing such motions should be set for June 7, 2024. If Plaintiff elects to join the
12 John Doe Defendants, the parties agree that the cut-off date for filing such motions should
13 be set for September 6, 2024.

14 **3. DISCOVERY.**

15 **(a) Initial Disclosures.**

16 The parties agreed to serve their initial disclosures by September 22, 2023.

17 **(c) Discovery Cut-off:**

18 If Plaintiff elects not to join the John Doe Defendants, the parties agree that fact
19 discovery should be completed by May 3, 2024. If Plaintiff elects to join the John Doe
20 Defendants, the parties agree that fact discovery should be completed by August 2, 2024.
21 The parties do not believe that fact discovery should be conducted in phases.

22 **(d) Expert Discovery:**

23 If Plaintiff elects not to join the John Doe Defendants, the parties agree that expert
24 witnesses should be disclosed no later than May 3, 2024, and all expert discovery should
25 be completed no later than July 5, 2024. If Plaintiff elects to join the John Doe Defendants,
26 the parties agree that expert witnesses should be disclosed no later than August 2, 2024,
27 and all expert discovery should be completed no later than October 4, 2024.
28

1 **(e) Privilege / Confidentiality:**

2 The parties agree that a protective order is appropriate in this case for the purposes
3 of exchanging confidential materials. The parties shall submit a proposed order for the
4 Court's review and approval within thirty (30) days of the scheduling order.

5 **(f) Trial Estimate:**

6 If Plaintiff elects not to join the John Doe Defendants, the parties anticipate a trial
7 lasting 3-4 days.
8

9 **4. ALTERNATIVE DISPUTE RESOLUTION**

10 The parties agree to ADR Procedure No. 1 (L.R. 16-15.4) – to appear before the
11 district judge or magistrate judge for such settlement proceedings as the judge may direct.
12 This session should occur by no later than November 30, 2023.
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15 Dated: September 22, 2023
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Respectfully submitted,

By: /s/ Kevin P. McCulloch
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*Counsel for Defendant Getty Images (US),
Inc.*

³ Attorney McCulloch attests that all other signatories listed, and on whose behalf this filing is submitted, concur in the filing's content and have authorized the filing.